

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 3:02CR60

TAROK KEARNEY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On February 7, 2007, the above styled matter came before Magistrate Judge David J. Joel, for a hearing on the Amended Petition for Warrant or Summons for Offender Under Supervision filed by United States Probation Officer, John Miller, on January 26, 2007. The Defendant was present in person and by counsel, Carmela Cesare. Assistant United States Attorney, Paul T. Camilletti, and United States Probation Officer, John Miller, appeared on the government's behalf.

Magistrate Judge Joel entered his Report and Recommendation on February 8, 2007. The Report and Recommendation indicated that the parties had reached an agreement on the charges and recommended a revocation of supervised release. Neither party filed objections to the Report and Recommendation.

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Therefore, the Court adopts the following findings and recommendations:

1. There is a preponderance of evidence establishing the Defendant violated the mandatory conditions of his supervised release requiring that he not illegally possess a controlled substance.
2. There is a preponderance of evidence establishing the Defendant violated the mandatory conditions of his supervised release that he shall not commit another federal, state or local crime.
3. There is a preponderance of evidence establishing the Defendant violated the mandatory conditions of his supervised release that he notify the probation officer ten days prior to any change in residence or employment.
4. There is a preponderance of evidence establishing the Defendant violated the special condition of his supervised release that he participate in a program of testing, counseling and treatment for the use of alcohol or drugs, if so ordered by his Probation Officer.
5. There is a preponderance of evidence establishing the Defendant violated the mandatory conditions of his

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supervised release that he shall answer truthfully all inquiries by the Probation Officer and follow the instructions of the Probation Officer.

6. There is a preponderance of evidence establishing the Defendant violated the mandatory conditions of his supervised release that he shall not leave the judicial district without permission of the court or probation officer.
7. The Defendant and the Government have agreed that the Government will recommend the minimum of twelve (12) months incarceration with credit for time served from January 3, 2007, followed by two (2) years supervised release to be served in Philadelphia, Pennsylvania.

Accordingly, the Court ORDERS the following:

1. The Defendant's supervised release is revoked;
2. The Court adopts the parties' agreement and sentences the Defendant to twelve (12) months incarceration, followed by two(2) years of supervised release, recommending service of sentence in Philadelphia, Pennsylvania.

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3. The Court recommends that the Defendant be given credit for time served in jail as a result of his arrest in this matter on January 3, 2007.

A judgment and committal order shall follow.

The Clerk is directed to transmit true copies of this Order to all counsel of record herein.

**DATED** this 15<sup>th</sup> day of March, 2007.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE